



BEFORE THE ARIZONA CORPORATION COMMISSION

**COMMISSIONERS**

BOB STUMP - Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

Arizona Corporation Commission

**DOCKETED**

APR 04 2014

DOCKETED BY

RECEIVED  
AZ CORP COMMISSION  
DOCKET CONTROL

2014 APR 4 PM 12 31

PROPOSED RULEMAKING TO MODIFY  
THE RENEWABLE ENERGY STANDARD  
RULES IN ACCORDANCE WITH ACC  
DECISION NO. 74365.

DOCKET NO. RE-00000C-14-0112

**STAFF'S NOTICE OF COMPLIANCE  
FILING PER DECISION NO. 74365**

**ORIGINAL**

The Utilities Division Staff ("Staff") of the Arizona Corporation Commission ("ACC" or "Commission") submits the attached compliance filing per Decision No. 74365 (Docket No. E-01345A-10-0394, et al.). In the attached filing, Staff has set forth seven (7) options to modify the Renewable Energy Standard Tariff ("REST") rules consistent with the Commission's directives in Decision No. 74365.

On February 26, 2014, the ACC issued Decision No. 74365. In that Decision, the Commission ordered:

that the REST rules shall be opened for the purpose of developing a new methodology for utilities to comply with renewable energy requirements that is not based solely on the use of RECs.

and

that Staff shall, after consultation with utilities, interveners in this docket, and other interested stakeholders, file proposed new rules no later than April 15, 2014, with the Commission...

On March 31, 2014, Docket No. RE-00000C-14-0112 was opened for the purpose of the Commission considering modifications to the REST rules per Decision No. 74365. A fundamental question which Staff believes needs to be answered at the outset is what is the information the Commission wants to track regarding Distributed Renewable Generation ("DG")/Distributed

<sup>1</sup> Decision No. 74365, p. 55 at lines 7-13.

1 Renewable Energy ("DE"), i.e., 1) all information regarding DG/DE activity in the utilities' service  
2 territory regardless of whether the utility owns it or not; or 2) only information concerning the  
3 DG/DE that the utility owns or has purchased. The answer to this question will more clearly define  
4 what changes, if any, may be required to the REST rules.

5 After consultation among Staff, with the parties to the case and stakeholders, Staff concluded  
6 that the parties would not be able to reach consensus on the concept/approach for new REST rules,  
7 much less the actual new rules themselves. Therefore, Staff has developed seven (7) concepts for the  
8 Commission to consider. The hope is that these concepts, alone or in some combination, and the  
9 parties' comments thereon, will provide the framework for discussion and an ultimate decision on an  
10 approach that is acceptable to the Commission. Once the Commission has an opportunity to review  
11 these concepts and the parties' comments, the Commission could, at an Open Meeting, provide Staff  
12 with direction on how the Commission would like the existing REST rules modified, if the  
13 Commission believed REST rule modifications were necessary for utilities to comply with the Rules,  
14 and the original Recommended Opinion and Order ("ROO") proposed by the Hearing Division is not  
15 an acceptable alternative.

16 Following are the seven (7) concepts (not in any order of preference) on which Staff seeks  
17 comment:

18 **I. Track & Monitor**

19 Assume:

- 20 A. Utility has retail sales of 1,000,000 kWh  
21 B. Renewable requirement by rule is 10% of retail sales  
22 C. Compliance is required to be met with Renewable Energy Credits ("RECs")  
23 D. 1 REC = 1 kWh  
24 E. Utility owns 90,000 RECs  
25 F. Other renewables in Utility's service area are producing 20,000 kWh for which Utility  
26 does not own the RECs

27 Rules would work such that the renewable energy requirement for Utility would be reduced to  
28 8% of retail sales, therefore, Utility would be considered in compliance with the rules because it  
owned 90,000 RECs which is equivalent to 90,000 kWh which is 9% of retail sales. Renewable  
requirement was reduced to 8% because renewable production from others (Utility does not own  
RECs) is 20,000 kWh which is equivalent to 20,000 RECs which is 2% of Utility retail sales: 10%  
minus 2% = 8%.

1 This concept would not eliminate the DG/DE carve-out. Although this concept would reduce  
2 the Utility's compliance requirement for both total renewable energy and DG/DE, the actual amount  
3 of either would not be reduced.

## 4 **II. Process Where Utility Would Purchase Least Cost RECs or kWh**

5 Require the Utility to purchase RECs or renewable kWh in order to meet REST  
6 requirements. The Utility would be required to demonstrate that it purchased the least-cost REC or  
7 renewable kWh available at the time of purchase. This could be accomplished by having the Utility  
8 periodically issue Requests for Proposals from any and all interested entities wishing to sell  
9 renewable kWh or RECs to the Utility.

10 This concept would not eliminate either the total renewable energy mandate or the DG/DE  
11 carve-out.

## 12 **III. Creation of Maximum Conventional Energy Requirement**

13 Completely rewrite the REST Rules to eliminate the "minimum" Renewable Energy  
14 Requirement to instead have a "maximum" Conventional Energy Requirement. Conventional  
15 Energy would be defined as any electrical energy produced by fossil or nuclear fuel. Maximum  
16 allowable Conventional Energy per year would be a percentage of total electrical energy consumed  
17 within a Utility's service area (as defined by the area covered by its Certificate of Convenience and  
18 Necessity ("CC&N")).

19 This concept would completely change the method by which renewable energy was accounted  
20 for by instead placing a limit on the amount of non-renewable (i.e., conventional) energy that is  
21 consumed. Depending on how the change is made, may or may not eliminate the DG/DE carve-out.  
22 However, this concept would eliminate any tracking or reliance on RECs. In addition, this concept  
23 could eliminate the REST surcharge since there is no longer a renewable energy mandate. Although  
24 this concept would eliminate the renewable energy mandate, the amount of total renewable energy  
25 produced should be equivalent to the amount produced under the current REST rules.

## 26 **IV. Mandatory Upfront Incentives ("UFI")**

27 UFI range could be \$0.10 per watt to \$0.50 per watt (\$2.00 per watt for Co-ops). UFI  
28 mandate and/or DG/DE mandate could be waived if resulting rates were found to be not in the public  
interest or sufficient DG was being installed by third parties within the Utility's service area (as  
defined by the area covered by its CC&N). The public interest impact of the rates and the sufficiency  
of third-party DG would be determined by the Commission on a case-by-case basis.

Because of the UFI, any customer that accepted the UFI would be required to relinquish  
his/her REC to the Utility, just as in the past when UFIs were offered. This concept would not  
eliminate either the total renewable energy mandate or the DG/DE carve-out. However, this concept  
would increase the REST surcharge due to the reinstatement of UFIs.

## 29 **V. REC transfer Associated with Net Metering**

Customer installing DG would be required to transfer all RECs produced by that DG if  
customer wanted to participate in Utility's net metering.

1 This concept would be the easiest rule modification, but could be quite controversial.  
2 Although this concept would not eliminate either the total renewable energy mandate or the DG/DE  
3 carve-out, some parties may view this as a takings because of their opinion that the Utility is not  
properly/adequately compensating the customer for the REC. Staff does not believe this would  
result in a takings.

#### 4 **VI. Recovery of DG/DE Costs Through the Standard Rate Case Process**

5 Utility would not be allowed to recover costs of complying with DG/DE requirement  
6 through the REST Tariff/Surcharge. Utility would be allowed to request a waiver of DG/DE  
7 requirement if it demonstrates financial hardship or sufficient DG was being installed in the Utility's  
8 service area (as defined by the area covered by its CC&N) by third parties. Financial hardship and  
9 sufficient third-party DG installation would be decided by the Commission on a case-by-case basis.  
10 Since incentives are no longer being offered by the Utility, the Utility would have to decide how  
best to comply with the DG/DE requirement of the REST rules, e.g. build its own DG, buy RECs or  
kWh. Utility would be allowed recovery of the cost for this compliance through the rate case  
process, e.g., once a DG system for which the Utility paid was found to be used and useful, the  
Utility could request cost recovery for that system in a rate case.

11 Some utilities may argue that this is unfair unless there is a regulatory asset created or a  
12 deferral account established. This concept would not eliminate either the total renewable energy  
mandate or the DG/DE carve-out.

#### 13 **VII. Track & Record**

14 This concept would require the Utility to track, record and report all renewable kWh  
15 produced within its service territory (as defined by the area covered by its CC&N). In its reporting  
16 to the Commission the Utility would report all kWh produced in its service territory and distinguish  
17 between those kWh for which it owned the REC and those for which it did not own the RECs. The  
reporting of kWh associated with RECs not owned by the utility would be reported strictly for  
informational purposes only. The Commission could consider all available information (including  
kWh produced) when determining compliance with the REST rules. The Commission would make  
the following statement (or something similar) part of the REST rules:

19 *Any Renewable Energy Credit ("REC") created by the production of*  
20 *renewable energy which the Affected Utility does not own shall be*  
21 *retained by the entity creating the REC. Such REC may not be*  
22 *considered used or extinguished by any entity without approval and*  
23 *proper documentation from the entity creating the REC, regardless of*  
*whether or not the Commission considered the kWh associated with*  
*non-utility owned RECs in determining an Affected Utility's*  
*compliance with these rules.*

24 This concept would not eliminate either the total renewable energy mandate or the DG/DE  
25 carve-out. In addition, because reporting of kWh for which the Utility did not own the REC would  
26 be strictly for informational purposes only and because of the statement added regarding the  
use/extinguishment of RECs, the issue of double-counting should be eliminated.

1 Staff requests parties to this Docket and any interested stakeholders provide comment on the  
2 seven (7) options described above by April 21, 2014; and reply comments by April 28, 2014.  
3 Anyone filing comments should feel free to also offer their own alternatives or proposals for new  
4 REST rules per Decision No. 74365. For parties' preferred options, or if a party is offering its own  
5 alternatives or proposals, it is important that the party include the actual changes to the REST rules  
6 that it believes would be necessary to accomplish the changes being advocated. If an interested  
7 party's position is that no changes are necessary for utilities to achieve compliance with the rules,  
8 please indicate that as well, and provide a detailed explanation.

9 RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of April, 2014.

10  
11 

12 Maureen A. Scott, Senior Staff Counsel  
13 Robin R. Mitchell, Attorney  
14 Legal Division  
15 Arizona Corporation Commission  
16 1200 West Washington Street  
17 Phoenix, Arizona 85007  
18 (602) 542-3402

17 Original and thirteen (13) copies  
18 of the foregoing filed this  
19 4<sup>th</sup> day of April, 2014 with:

19 Docket Control  
20 Arizona Corporation Commission  
21 1200 West Washington Street  
22 Phoenix, Arizona 85007

21 Copy of the foregoing mailed this  
22 4<sup>th</sup> day of April, 2014 to:

23 Thomas A. Loquvam  
24 Deborah R. Scott  
25 Pinnacle West Capital Corporation  
26 400 North 5<sup>th</sup> Street, MS 8695  
27 Phoenix, Arizona 85004

26 Michael W. Patten  
27 Roshka DeWulf & Patten PLC  
28 One Arizona Center  
400 East Van Buren Street, Suite 800  
Phoenix, Arizona 85004

Kevin Koch  
612 North 7<sup>th</sup> Avenue  
Tucson, Arizona 85705

Garry D. Hays  
Law Offices of Garry D. Hays, PC  
1702 East Highland Avenue, Suite 204  
Phoenix, Arizona 85016

1 C. Webb Crockett  
Patrick J. Black  
2 Fennemore Craig  
2394 East Camelback Road, Suite 600  
3 Phoenix, Arizona 85016-3429

4 Giancarlo Estrada  
Estrada-Legal, PC  
5 1 East Camelback Road, Suite 550  
Phoenix, Arizona 85012

6 Court S. Rich  
7 Rose Law Group  
6613 North Scottsdale Road  
8 Suite 200  
Scottsdale, Arizona 85250

9 Michael L. Neary, Executive Director  
10 Arizona Solar Energy Industries Association  
11 111 West Renee Drive  
Phoenix, Arizona 85027

12 Timothy M. Hogan  
Arizona Center for Law in the Public Interest  
13 202 East McDowell Road, Suite 153  
Phoenix, Arizona 85004

14 David Berry  
15 Western Resource Advocates  
Post Office Box 1064  
16 Scottsdale, Arizona 85252-1064

17 Christopher D. Thomas  
Fred E. Breedlove III  
18 Squire Sanders  
1 East Washington, 27<sup>th</sup> Floor  
19 Phoenix, Arizona 85004

20 Scott S. Wakefield  
Ridenour, Hienton & Lewis, PLLC  
21 201 North Central Avenue, Suite 3300  
Phoenix, Arizona 85004-1052

22 Ken Baker  
23 Wal-Mart Stores, Inc.  
2011 S.E. 10<sup>th</sup> Street  
24 Bentonville, Arkansas 72716-0550

25 Karen S. White  
U.S. Air Force Utility Law Field Support Center  
26 139 Barnes Drive  
Tyndall AFB, Florida 32403

Kerry Hattevik  
Director of West Regulatory and Market Affairs  
NextEra Energy Resources, LLC  
829 Arlington Boulevard  
El Cerrito, California 94530

Kyle J. Smith, General Attorney  
Office of the Judge Advocate General  
U.S. Army Legal Service Agency  
9275 Gunston Road  
Fort Belvoir, Virginia 22060-5546

Douglas V. Fant  
Law Offices of Douglas V. Fant  
3655 West Anthem Way, Suite A-109, PMB 411  
Anthem, Arizona 85086

Bradley Carroll  
Tucson Electric Power Company  
88 East Broadway Boulevard,  
MS HQE910  
Post Office Box 711  
Tucson, Arizona 85702

Kevin C. Higgins, Principal  
Energy Strategies, LLC  
215 South State Street  
Suite 200  
Salt Lake City, Utah 84111

Daniel W. Pozefsky, Chief Counsel  
Residential Utility Consumer Office  
1110 West Washington, Suite 220  
Phoenix, Arizona 85007

Craig A. Marks  
Craig A. Marks, PLC  
10645 North Tatum Boulevard  
Suite 200-676  
Phoenix, Arizona 85028

Rick Umoff  
Counsel and Regulatory Affairs Manager,  
State Affairs  
Solar Energy Industries Association  
505 9<sup>th</sup> Street, NW, Suite 800  
Washington, DC 20004

Maja Wessels  
First Solar  
350 West Washington Street  
Tempe, Arizona 85281

1 Annie Lappe  
The Vote Solar Initiative  
2 1200 Pearl Street, Suite 200  
Boulder, Colorado 80302  
3  
4 Roy Archer  
Ajo Improvement Company  
Post Office Drawer 9  
5 Ajo, Arizona 85321  
6 Joe King  
Arizona Electric Power Cooperative, Inc.  
7 Post Office Box 670  
Benson, Arizona 85602  
8 Christopher Martinez  
9 Columbus Electric Cooperative, Inc.  
Post Office Box 631  
10 Deming, New Mexico 88031  
11 LaDel Laub  
Dixie-Escalante Rural Electric  
12 Association, Inc.  
71 East Highway 56  
13 Beryl, Utah 84714-5197  
14 Michael Pearce  
Duncan Valley Electric Cooperative, Inc.  
15 Post Office Box 440  
Duncan, Arizona 85534  
16 Carl R. Albrecht  
17 Garkane Energy Cooperative, Inc.  
Post Office Box 465  
18 Loa, Utah 84747  
19 Kirk Gray  
Graham County Electric Cooperative, Inc.  
20 Post Office Drawer B  
Pima, Arizona 85543  
21 Paula Griffes  
22 Mohave Electric Cooperative, Inc.  
Post Office Box 1045  
23 Bullhead City, Arizona 86430-1045  
24 Ruel Rogers  
Morenci Water and Electric Company  
25 Post Office Box 68  
Morenci, Arizona 85540  
26 Paul O'Dair  
27 Navopache Electric Cooperative, Inc.  
1878 West White Mountain Boulevard  
28 Lakeside, Arizona 85929

Greg Bass  
Noble Americas Energy Solutions, LL  
401 West A Street, Suite 500  
San Diego, California 92101-3017

Creden W. Huber  
Sulphur Springs Valley Electric  
Cooperative, Inc.  
350 North Haskell  
Willcox, Arizona 85643

Caroline Gardiner  
Trico Electric Cooperative, Inc.  
Post Office Box 930  
Marana, Arizona 85653-0930

